



## **Further limits to Union citizens' equal treatment rights**

### **Ruling in Case C-67/14 Alimanovic, delivered on 15 September 2015**

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**CASE LAW:****Ruling in Case C-67/14 *Alimanovic*, delivered on 15 September 2015****TITLE: Further limits to Union citizens' equal treatment rights**

The Court of Justice of the European Union's ruling in case C-67/14 *Alimanovic*, decided in Grand Chamber and delivered on 15 September 2015, confirms and continues the rationale of the much debated ruling in Case C- 333/13 *Dano* (link 1).

Like *Dano*, the *Alimanovic*-ruling concerns the extent of a migrant Union citizen's right to equal treatment to the nationals of the host Member State, for access to social assistance. In *Alimanovic* (para. 49-50), the Court confirms its rule in *Dano* that a host Member State may lawfully refuse social assistance to non-economically active Union citizens who do not fulfil the requirements for lawful residence under the Free Movement Directive 2004/38. The Court then furthers its emphasis on the Directive's explicit conditions for a right to equal treatment and rules that social assistance may be denied Union citizens who are lawfully residing in the host Member State but whose status has changed from being "workers" to "job-seekers".

The two applicants in *Alimanovic* were Swedish nationals who had worked in the host Member State Germany, but were now without employment and looking for work. Art 24 (2) of the Directive entitles Member States to refuse social assistance to Union citizens who are job-seekers, and the Court rules that this lawful refusal applies also to persons in a situation like the applicants in *Alimanovic*. While they may be residing lawfully in Germany in accordance with the Directive, their right to equal treatment to the host State's own nationals in respect of access to minimum welfare may be limited.

Although the outcome of the ruling followed the rationale of cases like C-140/12 *Brey* and *Dano*, there are two noteworthy points in the Court's reasoning that set the *Alimanovic*-ruling apart. Firstly, the Court refrains from extending the scope of who can retain the status of being a worker beyond the wording of Article 7(3) in the Directive. This contradicts its ruling in case C-507/12 *Saint-Prix* (link 2). Failing being employed for more than 12 months, the applicants in *Alimanovic* could not maintain their status as workers beyond six months after the employment ended. As a consequence, they fell into the category of job-seekers again and lost their right to equal treatment.

Secondly, and most noteworthy, the Court finds that, while an assessment of the individual situation of the Union citizen with due regard of the principle of proportionality is necessary for the State's withdrawal of a right of residence or an expulsion measure, such individual regard is not necessary for the issue of a Union citizen's equal treatment rights for access to social assistance. The Court holds that the Directive contains sufficient consideration of individual circumstances and an adequate level of legal certainty, which allows for a more categorical assessment of Union citizens' right to social assistance (para 58-61).

*Alimanovic* thereby furthers the trend in the Court's recent case law, affirming that a non-economically active Union citizen's legal standing in a host Member State is conditioned primarily or solely by Directive 2004/38 and less by the Union citizenship provisions of the Treaties and general principles of EU law. (link 3)

- Link 1 = to previous WELMA comment on Dano in the WELMA Newsletter: WELMA's mailservice no. 2 - 2015 - Special Edition
- Link 2 = Link to the Court's ruling in Saint-Prix
- Link 3 = Link to the Court's ruling in Alimanovic